

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-030-10054R

Parcel No. 06-12-426-003

T. Edward Kizer (6013 Lakeshore Drive LLC),

Appellant,

vs.

Dickinson County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 2, 2019. T. Edward Kizer, Manager of 6013 Lakeshore Drive, LLC, was self-represented. Chief Deputy Assessor Jill Burgeson represents the Dickinson County Board of Review.

6013 Lakeshore Drive LLC (Appellant) owns a residential property located at 6013 Lakeshore Drive, Okoboji. Its January 1, 2019, assessment was set at \$1,045,800, allocated as \$813,600 in land value and \$232,200 in dwelling value. (Ex. A).

The Appellant petitioned the Board of Review writing in the area of the form reserved for a claim that its property's assessment was not equitable with assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2019). The Board of Review denied the petition.

The Appellant then appealed to PAAB. Based on the evidence submitted to the Board of Review and to PAAB, the parties agreed the claim before PAAB is whether the subject property is assessed for more than the value authorized by law. § 441.37(1)(a)(2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

Findings of Fact

The subject property is a two-story home built in 1980. It has 2016 square feet of gross living area; 685 square feet of average quality, basement finish; multiple decks, patios, and balconies; and a two-car detached garage. The improvements are listed in normal condition with a 3+10 Grade (good quality). The site is 0.258 acres and has 56.50 effective front feet on West Lake Okoboji. (Ex. A).

Ed Kizer, a co-owner of the property, testified about the history of its ownership. He explained his parents purchased the property in 1986. Upon his father's death, the property was divided between eight siblings as shareholders. Five of the siblings wished to sell the property and three wished to retain ownership of the property. (Ex. 1). Collectively, they hired an appraiser, Jerry Pape of Kramer Appraisal Service, Spencer, Iowa, to establish a fair market value for the property in determining a sale price for the siblings. (Ex. 2). The effective date of Pape's appraisal was September 20, 2017.

Pape described the subject property as being well-maintained but with limited updates. He also considered the roof to be in fair condition "due to significant moss on shake shingles on main dwelling and garage." (Ex. 2, p. 1).

Pape developed the sales comparison approach to value and relied on it solely to determine an opinion of value of \$850,000 as of September 2017. Pape selected three lakefront properties, which are summarized in the following table. (Exs. 1, E-G).

Comparable	Gross Living Area (SF)	Sale Price	Adjusted Sale Price
Subject	2016	N/A	N/A
1 - 2209 Lakeshore Dr	2334	\$915,000	\$867,500
2 - 15831 Lakeshore Dr	1338	\$843,000	\$845,300
3 - 5707 Lakeshore Dr	1573	\$940,000	\$880,700

Comparable 1 is a two-story home like the subject property, whereas Comparables 2 and 3 were both one-story homes. (Exs. D-F). After its May 2017 sale, Comparable 3 had a second story addition doubling its size. (Ex. F). Comparables 1 and 3 do not have a basement and Comparable 2 has only a partial basement compared to the subject property, which has a full basement.

All three comparables sold in May 2017 and Pape reported all of the properties, including the subject, as having 50 feet of lake frontage. He adjusted Comparables 1 and 3 downward \$45,800 and \$47,000 respectively for having superior sites with low approaches to the water. Pape identified the subject site as “gently sloping with medium approach to water.” (Ex. 2, p. 1).

The Board of Review was critical of Pape’s site adjustment asserting a lack of support showing sites with a lower approach are superior. It also believes Pape should have adjusted his comparable properties for differences in location on the lake, noting for assessment purposes they have different lakefront pricing. (Ex. L). We note only one of Pape’s comparable sales (Comparable 2) has a different front-foot pricing of \$13,200, compared to the subject’s front-foot pricing of \$14,400. (Exs. A, E, & L). Based on the record, we cannot determine whether the market would actually dictate such a difference for these sales.

Pape reconciled to the lower end of the adjusted range to take into consideration the limited updating and condition of the subject property’s roof. He concluded an opinion of value of \$850,000, as of September 2017. We do not know if any changes or updating has occurred to the subject property since Pape’s opinion of value.

Kizer testified he and his siblings relied on the Pape appraisal to reach an agreement on the February 2018 sale price of \$799,000. (Exs. 3 and 4). Kizer testified

the purchase price was reduced from the appraised value to offset typical real estate agent fees. The purchase price also included \$44,000 in personal property. (Ex. 4, p. 2).

The Appellant asserts the correct market value of the subject property is \$850,000.

The Board of Review considered the 2017 Pape appraisal, but in addition to its criticism about Pape's site adjustments, it noted the Appellants did not make any time adjustments to the comparables or Pape's conclusions to reflect a market value of the subject property as of January 1, 2019. (Ex. L).

The Board of Review submitted three 2018 sales it believes demonstrate a more current market value, which is higher than the value determined in the Pape appraisal. The sales are summarized in the following table. (Exs. L & G-I).

Comparable	Gross Living Area (SF)	Basement Finish	Sale Price	Adjusted Sale Price
Subject	2016	685	N/A	N/A
A - 15521 Lakeshore Dr	1668	1596	\$1,150,000	\$1,247,700
B - 5905 Lakeshore Dr	3016	300	\$1,299,000	\$1,218,100
C - 6405 Lakeshore Dr	1676	No Basement	\$985,000	\$1,070,100

The Board of Review adjusted the comparable properties' sites for differences in depth of the lots and the front foot pricing. (Ex. L). Additionally, the Board of Review adjusted each of the comparable properties for differences in the assessed values of the dwellings. The Board of Review asserts that with adjustments the indicated range of value for the subject property from these sales would be \$1,070,100 to \$1,247,700.

Analysis & Conclusions of Law

The Appellant contends the subject property is over assessed as provided under Iowa Code section 441.37(1)(a)(2).

There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). When the taxpayer "offers competent evidence that the market value of the

property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009) (citations omitted).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.*

The subject property sold in February 2018 for \$799,000. However, this was a sale from an estate and a purchase between related parties. Sales between immediate family of the seller are considered an abnormal transaction. Iowa Code § 441.21(1)(b)(1) (noting that sales prices in abnormal transactions shall not be taken into account or shall be adjusted to eliminate the effect of the condition). Because the transaction was abnormal, we conclude the sale price would not shift the burden of proof to the Board of Review.

The Appellant also submitted the Pape appraisal of the subject property to establish its market value. Pape relied on the sales comparison approach to value, which is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W. 2d 594, 597 (Iowa 1990). Pape concluded an opinion of value of \$850,000 as of September 2017. We recognize the effective date of the appraisal is more than a year prior to the assessment date. Although the appraisal indicates the 2017 value was less than the current assessment, no evidence was submitted showing the property’s correct value as of January 1, 2019.

Even if the dated appraisal were sufficient to shift the burden of proof to the Board of Review, we conclude the Board of Review has supported the current assessment. The Board of Review asserts Pape did not correctly adjust his comparable properties for differences in site values; and there have been no time adjustments made to his analysis to reflect a January 1, 2019, market value. As further support for the need of time adjustments, the Board of Review offered three 2018 sales of nearby lakefront properties. It adjusted for differences in site value and improvement value. Based on its analysis, the subject property's assessed value is bracketed by the unadjusted sales, and less than the adjusted range of value of the sales.

Order

PAAB HEREBY AFFIRMS the Dickinson County Board of Review's action.


This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

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